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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/843,904  
Filing Date: April 27, 2001  
Appellant(s): MAHNKEN ET AL.

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Mark C. Young  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 12/13/2007 appealing from the Office action mailed 3/8/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,049,784	Weatherly et al	04-2000
7,024,397	Donahue	04-2006
2003/0101087	Walker et al	05-2003

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weatherly et al. (U.S. Patent No. 6049784) (hereinafter referred as Weatherly) in view of Donahue (US Patent No. 7024397) (hereinafter referred as Donahue).

Re claims 1 and 19: Weatherly teaches a system for establishing a lease agreement between a first party and a second party, wherein the lease agreement is executed over a computer network,

comprising: a scoring module configured to screen an applicant (col. 4, lines 30-33); a leasing module configured to provide a lease agreement and receive acceptance of the lease agreement (col. 2, lines 23-25); and a payment module configured to receive payment over a computer network (col. 2, lines 26-30; col. 5, lines 14-59).

Weatherly does not explicitly teach a listing module configured to provide a list of units available for leasing over a computer network; providing a lease agreement and receiving acceptance of the lease agreement over a computer network. However, Weatherly teaches an electronic link 16 (col. 4, lines 19-22). Donahue teaches a listing module configured to provide a list of units available for leasing over a computer network (col. 1, lines 44-61); providing a lease agreement and receiving acceptance of the lease agreement over a computer network (col. 1, lines 8-12). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify in Weatherly to include these features as taught by Donahue. One would have been motivated to do this so that potential tenants can view a list of available properties for leasing as well as facilitate negotiations or consummation of real estate via the Internet, thereby enhancing the automating the system.

Re claim 10: Weatherly teaches that the leasing module is configured to provide a single or joint application lease (col. 4, lines 45-50).

Re claim 11: Weatherly teaches that the leasing module is configured to determine the security deposit (col. 2, lines 42-47; Fig. 2 RN {36}).

Art Unit: 3691

Re claim 12: Weatherly/Donahue teaches that the leasing module is configured to accept an electronic signature from the applicant (Weatherly: col. 4, lines 24-25; Donahue: col. 6, lines 47-51).

Re claim 13: Weatherly teaches that the payment module is configured to accept an electronic payment (Fig. 2, RN {38}).

Re claim 14: Weatherly teaches that an electronic payment comprises a credit card payment, electronic funds transfer payment, or an online check payment (Fig. 2, RN {38}).

Re claim 15: Weatherly teaches that the payment module is configured to send periodic billing statements, process periodic payments, and keep payment records for an established lease (Abstract).

Re claim 16-18: Weatherly does not explicitly teach a commerce module configured to provide electronic services (stock quotes, bill payments and third party transactions) and information services (concierge service and to-do checklist reminders) to the applicant. Official notice is hereby taken that it is old and well known to include a commerce module configured to provide electronic services (stock quotes, bill payments and third party transactions) and information services (concierge service and to-do checklist reminders) to the applicant. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Weatherly to include these features. Inclusion of these features allows the applicant to do other things while

establishing the leasing agreement.

2. Claims 2-9 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weatherly in view of Donahue and further in view of Walker et al. (U.S. Patent Application No. 20030101087) (hereinafter referred to as Walker)

Re claim 2 and 20: Weatherly and Donahue are discussed above. Weatherly and Donahue do not explicitly teach that the listing module is configured to provide a vacancy forecast for prospectively available units. Walker teaches a listing module configured to provide a vacancy forecast for prospectively available units (abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Weatherly to include a listing module configured to provide a vacancy forecast for prospectively available units as taught by Walker. One would have been motivated to do this in order to maximize revenue by reducing vacancy cost.

Re claim 3: Weatherly does not explicitly teach a listing module configured to provide a list of fees and deposits for each available unit and for each prospectively available unit. Donahue teaches the listing module configured to provide a list of fees and deposits for each available unit and for each prospectively available unit (Fig. 13, RN {1303}; col. 16, line 14). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Weatherly to include this feature. One would have been motivated to do this so that potential tenants can

Art Unit: 3691

view the terms (including price and security deposit) at which a particularly property is leased in order to determine affordability, thereby enhancing the system.

Re claim 4 and 21: Weatherly teaches that the scoring module screens the applicant based on a set of demographic information provided by the applicant (col. 4, lines 23-33).

Re claim 5: Weatherly teaches that the scoring module further performs online credit checks (col. 4, lines 29-35).

Re claim 6: Weatherly teaches that the scoring module further performs a real-time background check (col. 4, lines 33-43).

Re claim 7: Weatherly does not explicitly teach that the scoring module allows a single application for multiple units. Official notice is hereby taken that it is old and well known to allow a single application for multiple units. Allowing a single application for multiple units saves time so that applicants need not file applications for each and every unit. It would have been obvious to one of ordinary skill in the art at the time of the invention to include modify Weatherly to include this step. One would have been motivated to do this in order the save time, thereby enhancing the system.

Re claim 8: Weatherly teaches that the scoring module is further configured to accept or deny the applicant (col. 4, lines 33-42).

Re claim 9: Weatherly does not explicitly teach that the scoring module is configured to provide unit vacancy and yield management. Walker teaches that the scoring module is configured to provide unit vacancy and yield management (section [0004]). It would have been obvious to one of ordinary skill in the art at the time of the invention to include modify Weatherly to include this step. One would have been motivated to do this so that occupancy rate can be maximized.

Re claims 22-24: See claims 2, 4, 19 and 22 analyses above. Furthermore, Weatherly teaches payment status (Figs. 2 and 3; col. 3, lines 14-44). Weatherly does not explicitly teach that the receiving payment step further comprises: receiving credit card information from the first party; receiving payment approval from the first party; providing the credit card information to a credit card processor; and receiving a payment confirmation from the credit card processor; and presenting a payment receipt to the first party. Official notice is taken that this method of payment is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to include modify Weatherly to include this method of payment. One would have been motivated to do this in order to give the applicant flexible payment method.

#### **(10) Response to Argument**

The Examiner summarizes the various points raised by the Appellant and addresses them.

**A. Rejection of claims 1 and 19 under 35 U.S.C. § 103(a) as being unpatentable over *Weatherly* in view of *Donahue*.**

**B. Rejection of claim 24 under 35 U.S.C. § 103(a) as being unpatentable over *Weatherly* in view of *Donahue* and further in view of *Walker*.**

1. Regarding claims 1, 19 and 24, Appellant asserts that neither *Weatherly*, *Donahue*, nor *Walker* disclose a system or method in which a lease is accepted over a computer network (see Appeal Brief, pages 12, Summary).

In Response: The Examiner respectfully disagrees. *Donahue* explicitly teaches a method and apparatus for allowing two parties to negotiate and execute a real estate lease over a computer network such as the Internet (col. 1, lines 8-12; Fig. 1A). Examiner interprets providing lease agreement and receiving acceptance of the lease agreement to read on the cited portion of *Donahue*. It is clear from *Donahue*'s invention that a potential landlord and a potential tenant can negotiate a real estate lease and execute such lease agreement after conclusion of the negotiation via the Internet. One of ordinary skills in the art at the time of the invention would recognize that negotiating and executing a real estate lease over the internet entails receiving *acceptance* of the lease agreement before the agreement can be *executed*, otherwise both parties would perpetually be in negotiation and there will be no execution.

For this reason, *Donahue* clearly teaches receiving acceptance of a lease agreement over a computer network.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,  
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